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CURRENT TOPICS

The Bar Council

ADDED interest is lent to the Annual Statement for 1946 of the General Council of the Bar by reason of the fact that it is the first since the election and the adoption of the new constitution. Sir HERBERT CUNLIFFE, K.B.E., K.C., a member of the Council for twenty-five years, was thanked, on his resignation as chairman, for his long and careful work and attention to the affairs of the Council. Sir CHARLES DOUGHTY, K.C., and Mr. C. E. HARMAN, K.C., were also thanked. In October, 1946, Mr. G. O. SLADE, K.C., was appointed chairman, and Sir CYRIL RADCLIFFE, K.C., vice-chairman. No one can possibly criticise and, indeed, all will praise the changes in the constitution which will permit the Council to devote itself to improvement in the administration of justice, promotion and support of law reform and co-operation between the two branches of the profession. It is particularly pleasing to note among the five objects to be undertaken by the Council, the "protection of the public right of access to the courts and of representation by counsel before courts and tribunals." On the subject of co-operation between the two branches of the profession, it is stated in the report: "In view of the desirability of the two branches of the profession taking common counsel on the variety of matters that affect the profession as a whole and forming a united front for the legal profession, the Council suggested to The Law Society that a Joint Standing Committee should be set up. Recently a joint meeting with The Law Society resulted in this proposal being agreed in detail for reference to the respective Councils." Co-operation with The Law Society has ensured prompt action in regard to the urgent question of audience of solicitors and counsel before tribunals. Apart from matters of public interest, one of the purely professional points in the annual statement which will interest solicitors is the resolution of the Council that, in its view, Circuit Rules and special fees normally apply in the Divorce Courts (other than those sitting in London) to be held by the Special Commissioners for Divorce, except in cases where there is a risk, in the view of the circuit, of breakdown in the availability of counsel. The resolution was an interim decision awaiting any later decision of the Council to be made upon a report coming to it from the Special Committee of the Council on Circuit Special Fees. Another interesting professional point elucidated as a result of co-operation between the Council of The Law Society and the Bar Council arose out of a case heard at a Metropolitan Magistrates' Court. The question was asked of the Council whether it was proper for a barrister to interview his client, who was the accused, without the presence of the instructing solicitor, as the latter was unable to be present at an interview arranged. After consultation with The Law Society, answer was made: "If solicitors are unavoidably detained there is no professional objection to a barrister interviewing the lay client direct, with the approval of the instructing solicitor."

The Denning and Rushcliffe Reports: Prospects of Legislation

SOME good and some indifferent news was given by the LORD CHANCELLOR on 27th March, when he replied to the debate begun by the MARQUESS OF READING on the subject of the recommendations in the recent Denning Report concerning machinery to be made available for attempting reconciliation between spouses. The Lord Chancellor's view was that it might have disastrous results if he rushed in now to do something promptly, and he would rather wait until the present abnormal numbers of divorces got down to 10,000 or thereabouts. The State, he said, should not take on the work of guidance; that was for the voluntary societies. The Government were willing to make contributions, so long as the voluntary contributions did not dry up. If he were to appoint welfare or marriage guidance officers he would have to apply to Parliament for the necessary legislation; at present there was not the slightest hope that such legislation would be passed. The Rushcliffe scheme, on which he hoped to introduce a Bill early in the next session, would enable some very useful work to be done. A very large number of cases would come before the committee which it was proposed to establish at a stage long before differences had become irreparable. For those who have been waiting to hear some definite news concerning the implementation of the Rushcliffe proposals, the Lord Chancellor's speech was welcome. His more cautious approach to the Denning Committee's recommendations is a little disappointing, as in one sense they are more urgent than the Rushcliffe proposals, and the problems which they are designed to meet are more desperate. However, the promise of State aid for marriage guidance is a definite step forward.

A B.B.C. Inquiry

WHENEVER gossip gets abroad about alleged corruption it tends to magnify "trifles light as air" and to cause much public anxiety and some private distress. The genesis of the recent inquiry by Sir VALENTINE HOLMES, K.C., into the allegations against the staff of the British Broadcasting

Corporation appears to have been mainly gossip, arising out of incidents such as the sale by a member of the staff of unused presents, together with a portion of his household furniture, for the purpose of moving into a smaller house. There were, however, more serious matters, and though Sir Valentine Holmes found there was no solid foundation for the charges, that is not the same as finding that the charges were completely devoid of foundation. Sir Valentine Holmes clearly concluded that neither bribery nor corruption should be charged against the B.B.C. staff. Indeed, if the giving and taking of Christmas gifts can be described as bribery, the great majority of the population would have to be penalised. The motive for these gifts, however, especially for those on the more extravagant scale, is undoubtedly to influence business in the direction of the giver, especially when the donors are dance band leaders, song publishers and other members of a profession in which it seems to have been agreed to be the custom to spend large sums on presents at Christmas. It is rather shocking to learn that before the war the giving and taking of presents of this nature was not forbidden by a great public corporation, and that even the moderate precaution for the director of office administration to collect lists of presents was discontinued after 1941 except for some individual returns. Sir Valentine Holmes found that the only two persons against whom specific charges had been made were not influenced by gifts in any way whatsoever. This absolves the staff, but does not condone the system of giving lavish presents, the only object of which in the mind of the giver must be to influence work. Those who intend making gifts, especially to public servants, would do well to study the Prevention of Corruption Acts, 1906 and 1916. The existence of those Acts on the Statute Book should be sufficient to deter public servants from laying themselves open to the slightest suspicion.

Child Welfare

SINCE the publication of the Curtis Report, which so shocked public opinion with its revelations of the neglect of children deprived of a normal home life, little has been heard of the official reaction to its proposals. General relief will be felt that the Government has now, according to the PRIME MINISTER'S statement in the Commons on 24th March, accepted the recommendations of the Curtis and Clyde Committees that the task of providing a home background for children deprived of a normal home life should be brought under the supervision of a single central department. It has been decided, he said, that, for England and Wales, this central jurisdiction should be concentrated in the Home Office. A new and enlarged children's branch will be created in the Home Office, with an expanded inspectorate organised on a regional basis. A Standing Advisory Committee, widely representative of the many interests involved, and including representatives of the Ministry of Education, the Ministry of Health and the Ministry of Labour, will be appointed to assist the Home Office in its administration. The existing special responsibilities of the Admiralty and the War Office for orphans of service men, and of the Ministry of Pensions for war orphans, will continue, and are not affected by these decisions. Mr. Attlee said that the Government also accepted the recommendations of the Curtis and Clyde Committees that county councils and county borough councils in England and Wales, and county councils and town councils of large burghs in Scotland, should be the local authorities responsible for the welfare of all children deprived of a normal home life. It was proposed that, unless there are exceptional reasons to the contrary, the local authority should, at least for a period of three years, exercise their responsibility through a children's committee on the lines suggested in the Curtis and Clyde Reports. It is also intended that the schemes should make provision for the appointment by each local authority of a children's officer, who would be in general charge of the work of providing a home background for homeless children. In reply to a question, Mr. Attlee said that the Government intended to introduce legislation, but could not give a date.

Recent Decisions

In *Frank Gruner* v. *Commissioner or Superintendent of Prisons*, on 26th March (*The Times*, 27th March), the Judicial Committee of the Privy Council (LORD THANKERTON, LORD UTHWATT, LORD DU PARCQ, Sir MADHARAN NAIR and Sir JOHN BEAUMONT) held that on his petition to the Privy Council, the uncle of a man who had been sentenced to death by a military court and who had refused to appeal could not be said to be personally interested in the order of the Supreme Court of Palestine dismissing an application for an order calling on the Commissioner or Superintendent of Prisons to refrain from carrying out a death sentence on the petitioner's nephew pronounced by a military tribunal.

In *Yeovil Rural District Council* v. *South Somerset and District Electricity Company, Ltd.*, on 28th March (*The Times*, 31st March), the Court of Appeal (LORD OAKSEY, L.J. (dissenting), TUCKER and COHEN, L.JJ.) held that in estimating the rateable value of an electricity company's undertaking as a whole, properly valued on the profits basis, the excess profits tax payable by the company should not be deducted, but the existence of the tax was a factor which might be taken into consideration with others in arriving at the appropriate share of the profits to be allowed to the tenant. The court overruled *Port of London Authority* v. *Orsett Union Assessment Committee* [1919] 1 K.B. 84.

In *Inland Revenue Commissioners* v. *Northern Aluminium Co., Ltd.*, on 31st March (*The Times*, 1st April), the House of Lords (LORD SIMON, LORD WRIGHT, LORD SIMONDS and LORD NORMAND) held that para. 4 of Pt. II of Sched. VII to the Finance (No. 2) Act, 1939, implied that profits or losses made in a chargeable accounting period might affect the calculation of the average amount of capital employed in that period, but the important words for the purpose of the case before the House were "except so far as the contrary is shown." If the contrary was not shown, then, for the purpose of ascertaining the average amount of capital, profits or losses made in the relevant period were to be deemed to have resulted, as they accrued, in a corresponding increase or decrease in the capital employed. In the case before the House the question was whether a sum of £2,743,469, being the agreed amount of a rebate on the price of goods delivered in 1941, subsequently paid to the Ministry of Aircraft Production by the company under a certain agreement, should be deducted in computing the capital of the company for excess profits tax for the chargeable accounting period in question. Viscount Simon said that in the present case the contrary was conclusively shown, for whatever might be the correction ultimately arrived at in the figure of profits in 1941, the mere expectation that negotiations to be entered into might result in an agreed variation of the prices charged did not and could not result in a change of capital employed in the year 1941. The appeal was dismissed.

In *Weatherley* v. *Weatherley*, on 31st March (*The Times*, 1st April), the House of Lords (THE LORD CHANCELLOR, LORD WRIGHT, LORD SIMONDS, LORD UTHWATT and LORD NORMAND) dismissed an appeal by a husband petitioner for divorce on the ground of desertion, and held that mere refusal of sexual intercourse did not by itself constitute desertion, and if it continued for three years and upwards it did not afford a ground for divorce.

In *Halliday* v. *Barber, Walker & Co.*, on 1st April (*The Times*, 2nd April), the House of Lords (LORD SIMON, LORD WRIGHT, LORD SIMONDS, LORD NORMAND and LORD OAKSEY) held, allowing a workman's appeal from an order of the Court of Appeal (DU PARCQ and TUCKER, L.JJ., SCOTT, L.J., dissenting) that although no previous arbitration had been instituted in respect to the workman's claim to compensation under the Workmen's Compensation Acts, 1925 to 1943, because the employers had voluntarily met the claim, the county court judge had jurisdiction to award the workman costs in respect of his travelling expenses for the purpose of complying with an order made under s. 19 (2) of the 1925 Act to submit himself for examination by a medical referee at the time and place appointed.

CRIMINAL LAW AND PRACTICE

LARCENY AND *RES NULLIUS*

A LOITERING case at Bow Street, on 22nd January, raised an interesting question on the ownership of property in charges involving larceny. G was charged with loitering for the alleged purpose of committing a felony. Evidence had been called that he was seen to have entered forty-two telephone boxes on two successive days and it was alleged that he did so for the purpose of pressing button "B" on the telephone in order to take away money which other persons had left in the box.

The hearing was adjourned for legal argument, as it had been contended on G's behalf that the coins did not belong to anyone and therefore could not be stolen. The learned magistrate, however, held that the Postmaster-General had a special property in the coins as bailee, because they had been put into the slot to some extent conditionally for service which the Postmaster-General proposed to perform and to charge for if performed. If they were abstracted by someone not entitled to them, that amounted to larceny. Another point made by the learned magistrate was that G appeared to have been a trespasser in the telephone boxes, and no person could gain a title to property acquired by an act of trespass. The charge was dismissed under the Probation of Offenders Act.

The definition of "larceny" in s. 1 (1) of the Larceny Act, 1916, seems to indicate that proof of ownership must be given in order to secure a conviction for the offence. There must, it seems, be proof of lack of consent by the owner, and of an intention permanently to deprive the owner of the thing stolen. The common law is clear that where things are not owned by anyone, for example, where they have been abandoned (2 East P.C. 606), they cannot be stolen. This is a matter of some importance, as the defence is not infrequently raised that goods have been abandoned. Among the many cases of looting from bombed property during the war there were some in which defendants genuinely believed that what they had taken was no use to anybody, and had been abandoned. Such genuine belief would, if proved, be a good defence, for the onus is on the prosecution, under s. 1 (1) of the Larceny Act, 1916, to show that there is no claim of right made in good faith (cf. *R.* v. *White* (1912), 23 Cox C.C. 190).

So long as an article has some value a court is not likely to decide that it has no owner, even if its owner is unascertainable. Where this happens, it is settled that if the thing is in the possession of a bailee proof of the bailment may be given as proof of ownership, as a bailment creates a kind of ownership (*R.* v. *Cole* (1850), 4 Cox C.C. 280; *R.* v. *Vincent* (1852), 5 Cox C.C. 537). The authorities have even gone so far as to hold that where the finder of a lost purse who had retained it, not feloniously, but in the hope of a reward, was deprived of it by the defendant, the property in the purse could rightly be stated to be that of the finder: *R.* v. *Swinson* (1900), 64 J.P. 73. In the recent case at Bow Street, the Postmaster-General was what is sometimes called an "involuntary" and sometimes a "gratuitous" bailee, and it indicates the lengths to which courts are prepared to go in finding mere possession to be a special kind of property within the Larceny Act.

THE CUP IN THE SACK

MR. SANDBACH, the metropolitan police magistrate, sitting at Marlborough Street on 21st March, cited what he called "the oldest case in the world" as the authority governing the case before him. According to a report in an evening paper he said: "A silver cup was found in Joseph's sack of corn when he was returning from Egypt, but he didn't put it there." The sack was, of course, Benjamin's, and it was his brother Joseph by whose orders it was put in the sack in order to provide a pretext for detaining his favourite brother. There could be little authority garnered from such an obvious perversion of the course of justice, except that a vizier of Pharaoh used such judicial power as he may have had to effect a detention by means of a fraud which he had himself originated, and that it was his view that the fact of being found in possession of someone else's property without that person's consent was evidence of theft, or at least of unlawful possession. The learned magistrate in the case before him decided that the fact that a bar of soap was found in the pocket of a jacket left hanging up was not evidence of theft either one way or the other against the owner of the jacket. He discharged the defendant, and that decision cannot be criticised, but the general proposition that possession of property against the will of the owner is not evidence one way or the other cannot be taken as following from it. The learned magistrate was no doubt right in holding that in the circumstances of the particular case before him no presumption of theft was raised by the fact of the defendant's possession, as there were other reasonable explanations, although the defendant might not be aware of them.

Moreover, the learned magistrate may not have been satisfied that the soap was stolen.

None the less there is a well-known presumption raised by the possession of property recently stolen, and a defendant is called upon to give a reasonable explanation (*R.* v. *Abramovitch and Schama* (1914), 84 L.J.K.B. 396). Theft need not be proved by calling the owner, but may be demonstrated by circumstantial evidence (*R.* v. *Fuschillo* (1940), 27 Cr. App. R. 193.

On the other hand, Wills on Circumstantial Evidence, 7th ed., at p. 105, expresses the view that the rule must be applied with discrimination "for the bare possession of stolen property, though recent, uncorroborated by other evidence, is sometimes fallacious and dangerous as a criterion of guilt." The learned writer cites a case from Sir Matthew Hale's "Pleas of the Crown" (2 Hale P.C. 289) to show that an innocent man might be duped by a guilty man into taking temporarily into his possession a horse or other article which had been stolen. See also *R.* v. *Gill*, Ann. Reg. 1827 (Chron.), at p. 179.

FREEDOM FROM ARREST

THE House of Lords decision in *Christie* v. *Leachinsky* on 25th March does not create new law on the powers of the police to arrest without a warrant. It is a landmark in the history of English liberties because it clarifies the propositions of law laid down in modern text-books and decisions and marks the development of the present law from rules laid down in such text-books as Hale's "Pleas of the Crown" (vol. 2, ch. x, p. 82) and Burn's "Justice of the Peace" (vol. 1, p. 202).

The general rule, according to Lord Simon, is that if a policeman arrests without a warrant on reasonable suspicion of felony, or of other crime of a sort which does not require a warrant, he must in ordinary circumstances inform the person arrested of the true ground of arrest. He is not entitled to keep the reason to himself, or to give a reason which is not the true reason. In other words, a citizen is entitled to know on what charge or on suspicion of what crime he is seized. If the policeman fails in this duty, according to Lord Simon, apart from certain exceptions, he is liable to pay damages for false imprisonment. There are circumstances in which the person seized must be taken to know the general nature of the alleged offence for which he is detained, and in such circumstances the person arrested need not be told. Nor need he be told in technical and precise language so long as he is told in substance. The person arrested cannot complain of not being told if he is the cause of his not being told, for example, where he counter-attacks or runs away.

Lord Simon added that he was not laying down a complete code and there might be other exceptions. The rule applied also to private persons who arrested on suspicion. Any other general rule would be contrary to our conception of individual liberty, though it might be tolerated in the time of the *Lettres de Cachet* in the eighteenth century in France or under the Gestapo. His lordship quoted from Dalton's "County

Justice": "The liberty of a man is a thing specially favoured by the common law."

The importance of the reaffirmation of this principle cannot be exaggerated. The powers of private persons to arrest where a felony has been committed and there is reasonable ground for thinking that the person detained has committed it are important now that crimes of violence are more numerous, and the statutory powers of arrest without warrant under, e.g., the Malicious Damage Act, 1861, the Larceny Act, 1916, the Curtis Act of 1876, and many other Acts are more used than is generally appreciated. Of no less importance in such times as these is the assertion of our individual liberties to counteract any tendency which may appear for police powers to be exceeded.

COMPANY LAW AND PRACTICE

TRANSACTIONS EQUIVALENT TO MEETINGS

LAST week I referred to the principle by which the meeting of the members of a company is enabled to bind the company, and I propose now to consider how far a company is capable of being bound by the acts of its corporators without the formality of holding a meeting.

In *Re George Newman & Co.* [1895] 1 Ch. 674, all the shareholders had agreed to certain payments being made to a director. The payments were in fact for other reasons *ultra vires*, but in delivering the judgment of the Court of Appeal, Lindley, L.J., said: "But even if the shareholders in general meeting could have sanctioned the making of these presents, no general meeting to consider the subject was ever held. It may be true, and probably is true, that a meeting if held would have done anything which Mr. George Newman [the director who had received the presents] desired . . . Individual assents given separately may preclude those who give them from complaining of what they have sanctioned; but for the purpose of binding a company in its corporate capacity individual assents given separately are not equivalent to the assent of a meeting."

In fact in this case several of the members of the company were infants, and the case of *Re Innes & Co.* [1903] 2 Ch. 254, suggests that that fact was a material one for the decision in the earlier case. During the course of the argument in *Re Innes & Co.*, Romer, L.J., said, referring to *Re George Newman & Co.*, "A general meeting was necessary in that case because several of the shareholders were infants" and in his judgment he said, speaking of the case before him: "The facts are that the shareholders were only eight in number and they were all *sui juris*. No others were invited to join and it was not contemplated that any others should be invited to join. That being so the company as a whole —that is, all the shareholders—knew of those shares being given to these six shipowners. Under those circumstances the company could not impeach the gifts after the gifts had been made . . . nor could the company after having assented by all its shareholders call upon the six shipowners to refund . . . the gifts . . ."

This case is by no means a satisfactory one for the illustration of this topic, for it appears from the judgment of Cozens Hardy, L.J., that the decision turned to a certain extent on the pre-1908 distinction between a public and a private company which, as he remarked, was by no means easy to appreciate. Further, Romer, L.J., pointed out that there was no question of any act which could only be validated by virtue of a general meeting of the company, by which presumably he meant acts which the articles or the Act required to be so validated.

The difficulties created by these various distinctions are perhaps not real ones, and the decision probably does not alter the law as stated by Cotton, L.J., in *Baroness Wenlock* v. *River Dee Company* (1883), 36 Ch. D. 675*n*, at p. 681. There he said: "The majority of shareholders in general meeting can direct and are the proper mode of directing in certain cases how the powers of the corporation are to be exercised . . . The court would never allow it to be said that there was an absence of resolution when all the shareholders and not only a majority have expressly assented to that which is being done." If this be the correct view where the company can do something by a resolution of a general meeting, the unanimous consent of all the corporators will be equivalent to such a resolution, and this will be the case whether or not the Act or the articles expressly require a resolution of the company for the performance of the Act. It will be immaterial whether the company is a public or a private company, for this question cannot now have any bearing on the topic under consideration. All the differences between public and private companies are now to be found set out in the Act and the same considerations on this point must apply to both classes of companies.

Cotton, L.J.'s remarks referred to above were not strictly speaking necessary for his decision in that case. *Re Express Engineering Works, Ltd.* [1920] 1 Ch. 466, however, is an express decision which goes some way to clearing up the matter. In that case all the members of the company were directors. They held a meeting described in the minutes as a board meeting at which they entered into a contract. Being all interested in the contract, they were disqualified by the articles from voting on it, and subsequently the liquidator endeavoured to have the contract declared invalid on the ground that it was never approved by a meeting of the company. He failed in this before Astbury, J., and in the Court of Appeal. Lord Sterndale, M.R., said: "It was said here that the meeting was a directors' meeting, but it might well be considered a general meeting of the company, for although it was referred to in the minutes as a board meeting, yet if the five persons present had said: 'We will now constitute this a general meeting,' it would have been within their powers to do so, and it appears to me that was in fact what they did."

In Younger, L.J.'s opinion the true view was that, if you have all the shareholders present, then all the requirements in connection with a meeting of the company are observed, and every competent resolution passed for which no further formality is required by the statute becomes binding on the company. It follows therefore from this case that all the corporators may if they assemble waive any formality as to notice.

This leaves open the question of the effect of the unanimous consent of the corporators not given at an informally constituted meeting, but separately on different occasions, and this question is cleared up in *Parker & Cooper* v. *Reading* [1926] Ch. 975.

In that case the liquidator of the company sought to have the issue of a debenture declared invalid on various grounds, namely, that the two directors who were present at the board meeting authorising the issue of the debenture had not been properly appointed, that one of them was interested in the issue of the debenture and consequently under the articles there was no quorum at the board meeting, and that the debenture had not been sealed in the manner prescribed in the articles.

In his judgment Astbury, J., assumed that these contentions were well founded, but he also held that everything had been done with the utmost *bona fides* and solely for the benefit of the company. He pointed out that the debenture had been issued with the assent of every shareholder and, as appears from the statement of facts in the report, the proposed issue of the debenture was discussed between all the shareholders (four in number) from time to time, and they had all individually assented to the proposal, although only two of them were present at the board meeting which purported to authorise the issue of the debenture.

On those facts the plaintiff argued that the judge was bound to declare that the issue was invalid because the

shareholders' assent to the irregular transactions was not given at any actual meeting. Astbury, J., proceeded to examine the authorities for the purpose of seeing whether that contention was sound, and came to the conclusion that it was not.

In dealing with *Re George Newman & Co.*, he referred to Lindley, L.J.'s statement that for the purpose of binding a company in its corporate capacity individual assents given separately were not equivalent to the assent of a meeting, and in regard to this he merely said that the Lord Justice was dealing with the particular facts of the case before him. In fact, as has already been noticed, the act complained of in *Re George Newman & Co.* was *ultra vires* and some of the shareholders were infants who would not have been bound by their individual assents. The headnote to that case concludes by saying: " . . . the shareholders for the time being had no power to authorise the making of presents to directors out of money borrowed by the company; secondly, because if there had been such power it could be executed only at a general meeting."

The second of these propositions contained in the headnote appears to be justified by the judgment of Lindley, L.J., but in view of the now twenty-year-old decision of Astbury, J., in *Parker & Cooper* v. *Reading*, it must be regarded as at least improbable that there are any occasions on which the individual assents of all the members of a company are not equivalent to a resolution by the company in general meeting, at any rate where all the members are *sui juris*.

With regard to *Re Express Engineering Works, Ltd.*, Astbury, J., agreed that in that case an actual meeting of all the shareholders took place, but he did not think that that was the reason for the Court of Appeal finding as they did.

It is perhaps possible to reconcile the earlier with the later decisions, but it may well be that this line of cases illustrates a change in the weight which judges are prepared to give to formalities in connection with company law, and that the same facts might cause a different result to be arrived at now than would have been the case fifty years ago.

It is of course vital in order that any such transaction as has been discussed here should be upheld that it should be done *bona fide*, honestly and in the interests of the company.

A CONVEYANCER'S DIARY

IRREVOCABLE POWERS OF ATTORNEY

My attention has recently been called to the somewhat remarkable effects of the provisions of ss. 126 and 127 of the Law of Property Act, 1925, in relation to irrevocable powers of attorney, and to the divergence of opinions expressed by the text-writers on the matter.

At common law the authority of an agent is determined by the insanity or death of the principal. The only decision which need be cited for this proposition is *Yonge* v. *Toynbee* [1910] 1 K.B. 215. There the defendant, after instructing his solicitors to defend a threatened action, became insane. The solicitors, in ignorance of his insanity, entered appearance and took further steps in the action. When the plaintiff discovered the insanity of the defendant he applied for the appearance and later proceedings to be struck out, on the ground that the solicitor had taken these steps without authority. The master, the judge and the Court of Appeal all concurred in ordering the proceedings in question to be struck out, and the Court of Appeal, reversing the decision on this point of the master and judge, also ordered the solicitors to pay the costs personally, on the ground that by purporting to act, even in ignorance, for an insane party, they had warranted an authority which they did not in fact possess. The bankruptcy of the principal has the same effect as the death or insanity. *Yonge* v. *Toynbee* has been criticised on the point decided by the Court of Appeal in some of the books, but it cannot be overthrown except in the House of Lords, and there is not much prospect of that occurring after almost forty years. On the main point it is inexpungable.

The common-law rule is subject to certain statutory modifications in regard to agencies created by powers of attorney. Thus, s. 124 of the Law of Property Act, 1925, reproducing s. 47 of the Conveyancing Act, 1881, provides that any person making any payment, or doing any act, in good faith, in pursuance of a power of attorney, shall not be liable for that payment or act by reason of the donor of the power having become insane or bankrupt or having died, if the relevant fact was unknown to the person so paying or acting when he made the payment or did the act. Broadly, this section's effect would be to protect persons in the position of the solicitors in *Yonge* v. *Toynbee*, if they had had a power of attorney, or conversely to protect anyone dealing with the donee of the power, in the circumstances mentioned, from proceedings to make him personally liable for the dealing. It does not, however, validate the acts in question; it merely destroys certain rights of action for damages.

Sections 126 and 127 go very much further, and it will be best to set out their material paragraphs in full. Section 126 (1) is as follows:—

> " If a power of attorney given for valuable consideration is expressed to be irrevocable, then, in favour of a purchaser—
>
> (i) The power shall not be revoked at any time either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, disability or bankruptcy of the donor of the power; and
>
> (ii) Any act done at any time by the donee of the power in pursuance of the power shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, disability or bankruptcy of the donor of the power had not been done or happened; and
>
> (iii) Neither the donee of the power nor the purchaser shall at any time be prejudicially affected by notice of anything done by the donor of the power without the concurrence of the donee of the power, or of the death, disability, or bankruptcy of the donor of the power."

Section 127 (1) deals with the case of " a power of attorney, whether given for valuable consideration or not, [which] is in the instrument creating the power expressed to be irrevocable for a fixed time therein specified, not exceeding one year from the date of the instrument." The rest of the subsection makes provisions in favour of a purchaser identical with those of s. 126, save so far as they require adaptation through the limited duration of the power conferred by s. 127. Both sections are reproduced from the Conveyancing Act, 1882, and are retrospective to 1st January, 1883.

These sections appear, on the face of them, to make it certain that a purchaser (that is, a purchaser in good faith and for valuable consideration: see s. 205 (1) (xxi)), can deal with the donee of a power given for value at any time, or with the donee of a power expressed to be irrevocable for not exceeding a year during that year, without inquiring whether the donor be living or dead, sane or insane, bankrupt or solvent, and can get a good title from such donee. Further, they seem equally to cover the case where the purchaser, dealing in perfect good faith with the donee, and putting his reliance on the section, actually knows that the donor is insane, bankrupt or dead. The consequences may well be peculiar; thus, if the donor is dead, his title to the property the subject-matter of the purchase will have terminated, and the personal representatives alone will be entitled. But apparently the donee can confer rights on a purchaser in respect of the property in question, just as if he were the attorney of the personal representatives. The position as to

an action for specific performance is also odd. Sections 126 and 127 only confer rights *in favour* of a purchaser, not rights adverse to a purchaser, so that they apparently do not enable the attorney to sue. The only relevant provision is s. 124, under which the attorney is freed from liability in damages in the event of his suing after the death of the principal but in ignorance of such death. The result is, apparently, that the donee can give a good title to a willing purchaser, but that the personal representatives alone can compel an unwilling purchaser to proceed.

The learned editors of Williams on Vendor and Purchaser, 4th edition, express the view that a purchaser who has notice of the principal's death cannot safely be advised to proceed with the purchase, relying on s. 127. The reasons for this view are not clearly stated, and are difficult to appreciate. Notice can surely only affect rights at law (and the donee's rights and the purchaser's protection under those sections are legal, not equitable) if the statute so provides: not only does the statute not so provide but it provides exactly the contrary. No doubt the provisions of ss. 126 and 127 are anomalous, and indeed they may be shocking to a purist, but Parliament is supreme. And, incidentally, the one reported decision since 1883 which seems to have relevance points in the same direction. That decision was in *Tingley* v. *Muller* [1917] 2 Ch. 144, where the question was as to the validity of an irrevocable power of attorney, given under the section of the Conveyancing Act, 1882, which corresponded to s. 127, the donor being a German who returned to his native land, and thereby became an enemy at common law, during the period for which the power was expressed to be irrevocable. The power was held still to be valid. So far as it affects the law relating to enemies, *Tingley* v. *Muller* has come in for a good deal of criticism, express or implied; see, for instance, the speech of Lord Porter in *Van Udens* v. *Sovfracht* [1943] A.C. 203. But it does not appear to have been challenged on any broader ground, and the acquisition of enemy status is not one of the eventualities provided against by s. 127. The learned editors of "Wolstenholme" evidently do not share the view expressed in "Williams," for they say that "the position of the attorney is practically the same as if the property had been conveyed to him on trust for sale," adding that if the principal is dead the attorney should not sign the principal's name (meaning that he should sign his own): see 12th ed., p. 447. The various statements in the books are fairly fully summarised in the current edition of "Emmett," where the conclusion is, in effect, the same as I have stated above. I am of the opinion, therefore, *pace* "Williams" and those who think the same, that ss. 126 and 127 mean exactly what they say, however strange the results could be.

LANDLORD AND TENANT NOTEBOOK

CONTROL: THREE JURISDICTION DECISIONS

ATTENTION has been drawn to the importance of s. 17 (2) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, by *Smith* v. *Poulter* [1947] W.N. 15, and by *A. J. Smith & Co., Ltd.* v. *Kirby* [1947] 1 All E.R. 459, and to s. 2 (2) of the Furnished Houses (Rent Control) Act, 1946, by *R.* v. *Furnished Houses Rent Tribunal for Paddington and St. Marylebone, ex parte Kendal Hotels, Ltd.* [1947] 1 All E.R. 448.

The Increase of Rent, etc. (Restrictions) Act, 1920, s. 17 (2), runs: "A county court *shall have* jurisdiction to deal with any claim or other proceedings *arising out of* this Act or any of the provisions thereof, notwithstanding that by reason of the amount of the claim or otherwise the case would not but for this provision be within the jurisdiction of a county court, and, if a person takes proceedings under this Act in the High Court which he could have taken in the county court, he shall not be entitled to recover any costs."

In *Smith* v. *Poulter*, proceedings began when the plaintiff issued a writ against his protected tenant, claiming possession, arrears of rent, mesne profits and costs. Presumably the tenancy agreement or lease contained a forfeiture clause, but all we are told about the facts is that the defendant had withheld rent on the ground that the landlord had failed to pay some tax and the defendant claimed to have paid it when the Inland Revenue authorities demanded it of him. He did not, however, appear to the writ and the plaintiff signed judgment for all four of the matters he had claimed. His next step was to apply for leave to proceed (necessary, at all events, in the case of forfeiture); thereupon the defendant, who had failed to understand the command to enter an appearance expressed in the writ, realised his position, applied to a master for the judgment to be set aside, and on this application being refused appealed to the judge in chambers.

Giving judgment in open court, Denning, J., held that the judgment had been wrong for two reasons. The first was the failure to consider the overriding consideration of reasonableness: a number of authorities had shown that it was the duty of the court to see that the conditions of the Act were satisfied, whether the point was raised by the defence or not (cf. 90 SOL. J. 523). The other was that costs could not be awarded.

The learned judge observed that county court procedure was better suited to carry out the intentions of the Legislature in these cases, and recommended that if proceedings were taken in the High Court for possession the writ should either say why the house was not controlled or on what ground possession was sought.

The failure to consider the overriding consideration and the reference to the greater suitability of county court procedure, of course, go together. Apart from the fact that the defendant in a county court action does not have to enter an appearance, there is r. 18 of the Increase of Rent, etc. (Restrictions) Rules, 1920, directing the court to satisfy itself, before making an order for the recovery of rent or of possession, that the order may properly be made. There is nothing in the R.S.C. that corresponds to this, though the words of s. 3 (1) of the Rent, etc., Restrictions (Amendment) Act, 1933, "No order or judgment for the recovery of possession . . . shall be made or given unless . . ." obviously "place a fetter on" the High Court as they do on the county court (*Barton* v. *Fincham* [1921] 2 K.B. 291). The recommendation that a writ should give the particulars mentioned is perhaps not always easily carried out. There is, since 26th May, 1938, a presumption that a dwelling-house is within the Acts (Increase of Rent, etc., Act, 1938, s. 7 (1)); but whether premises are a dwelling-house may itself be open to question. And if it is, while it may indeed be desirable that the ground on which possession is sought be formally notified to court and defendant, this is not technically part of the cause of action, and a valid ground may not even be in existence when the writ is issued. If the day before the hearing the landlord finds some suitable alternative accommodation, he is perfectly entitled to rely upon its availability to confer the necessary jurisdiction.

No question was raised in the above case whether s. 17 (2) indeed applied; if *A. J. Smith & Co., Ltd.* v. *Kirby* had then been decided, the point might have been taken. For in this case landlords of controlled property recovered over £370 arrears of rent, possession and mesne profits in an action brought in the High Court, and the defence contended that they were not entitled to any costs by virtue of the subsection named. From time to time, different views have been expressed on the question whether a claim for possession is one arising out of the Act. Scots and Irish courts have decided that it is not. In England, however, *Russoff* v. *Lipovitch* [1925] 1 K.B. 628 (C.A.) is authority for the proposition that it is, at all events if the tenant be the defendant. This authority was now distinguished, Hilbery, J., holding that this was an action which was "in the first place"

for arrears of rent, and in the second place for possession; the claim for rent arose out of the lease, not out of the Act; the subsection dealt only with cases where the whole claim arose out of the Act; so the plaintiff was entitled to costs.

Of *R.* v. *Furnished Houses Rent Tribunal for Paddington, etc.*, there is perhaps little to be said in this "Notebook." Rent had been reduced by the respondents under s. 2 (2) of the Furnished Houses (Rent Control) Act, 1946: "... the tribunal shall consider it [the reference] and, after making such inquiry *as they think* fit, and giving each party [to the contract] ... an opportunity to be heard ... shall approve the rent payable under the contract or reduce it to such sum as they may, *in all the circumstances*, think reasonable." The application was for an order of certiorari to bring up and quash a decision on the ground of failure to consider certain matters. It was held that only if proceedings were irregular upon their face would such a remedy be available. But the following passage from the judgment of Goddard, L.C.J., is of interest: "Where it has been shown that a tribunal have declined to consider matters which they ought to have considered, *or* have considered matters which they ought not to have considered, *or* have not decided the case according to law, this court has in many cases granted mandamus to the tribunal commanding them to hear and determine according to law." The order of mandamus is, indeed, one of extensive remedial nature, and it is possible that furnished houses rent tribunals may some day find themselves corrected by this means. For the present, the decision may serve to bring home to anyone who still associates them with referees appointed under the Landlord and Tenant Act, 1927, and arbitrators functioning under the Agricultural Holdings Act, 1923, that, quite apart from the marked tendency to moralise and pontificate exhibited by some of them, no analogy can be drawn. The Agricultural Holdings Act arbitrator is (unless the parties agree one) appointed by the Minister of Agriculture from a panel formed by the Lord Chief Justice; he may, and may be directed to, state a special case for the opinion of the county court. The Landlord and Tenant Act referee is a member of a panel appointed by a committee consisting of the Lord Chief Justice, the Master of the Rolls, the President of The Law Society, the President of the Surveyors' Institution and others co-opted by them, and he automatically reports to the county court. But furnished houses rent tribunals are appointed by the Minister of Health, who also regulates their proceedings; and this may be why it has not yet been found possible to find out what facts they consider relevant when considering the reasonableness of rent (cf. 90 SOL. J. 581).

TO-DAY AND YESTERDAY

April 7.—On 7th April, 1731, "at a court martial held at Spithead, John Berkeley and Jonathan Stoker, who belonged to His Majesty's ship, the *Weazel*, were sentenced to receive each 104 lashes on their bare backs for putting a lighted match between the fingers of two men and a boy, who belonged to a French vessel."

April 8.—John Beddingfield was a young farmer. Ann, his wife, fell in love with Richard Ringe, a youth working on the farm, and her behaviour was "such that he could not long doubt of her favourable inclinations, nor had he virtue to resist the temptation." They decided to murder the husband and she promised to share her fortune with him. First poison failed. Then one night, when Beddingfield came home from selling some cattle, he found his wife in bed with one of the maids. He went through to his own room alone and in the night Ringe strangled him. The wife and the maid, asleep in the next room, were awakened by the noise. Ringe came in saying: "I have done for him," and the woman replied: "Then I am easy." The surgeon and the coroner's jury, after a casual inspection of the body, pronounced for natural death but, a few weeks later, the maid, having prudently waited for her quarter's wages, revealed the truth. The woman and her lover were convicted at Ipswich and on 8th April, 1763, they were taken to Rushmore nearby, where he was hanged and she was burnt.

April 9.—On 9th April, 1808, the future Lord Campbell wrote to his brother: "I finished my circuit on Monday week; earnings—one guinea as a kite. This ... is when a junior counsel has not been retained for the plaintiff, and a fee is given to the junior in court. The weather was so cold as to render travelling very disagreeable. However, I drank some good wine and heard some good stories at the circuit table. On my return to town I did not expect even to sign a half-guinea motion paper till Easter Term. Know, however, that I have been speaking in the House of Peers." He had been briefed to oppose a Bill. "What care I for the Surrey justices," he wrote, "after addressing Princes of the Blood?"

April 10.—Sir Thomas Coventry became Solicitor-General in 1617, and Attorney-General in 1621, holding the office till 1625, when he was promoted Lord Keeper. He received his final advancement on 10th April, 1628, when he became Lord Coventry of Aylesborough in the County of Worcester. "A pious, prudent and learned man and strict in his practice ... he died in great honour and much lamented by all the people" in January, 1640, having held the Great Seal for over fourteen years.

April 11.—Sir Thomas Wyatt's conspiracy against Queen Mary was hatched after the announcement of her intended marriage with Philip of Spain. He rose with 4,000, entered Southwark, but could not cross the Thames because of the Tower batteries, crossed instead at Kingston and advanced on London through Kensington, Charing Cross, the Strand and Fleet Street. By the time he reached Ludgate his force was too much diminished to storm the gate and he retreated to Temple Bar, where he surrendered. He was convicted of treason and beheaded on Tower Hill on 11th April, 1554, having made a speech accepting full responsibility.

April 12.—On 12th April, 1766, the Old Bailey Sessions ended, and six were condemned to death, a boy of fifteen for robbing his master's till, a woman for robbing her master, a man who had stolen money in a dwelling-house, two horse stealers and a man who had personated a quartermaster on board the *Liverpool* to receive his wages.

April 13.—John Larner, under pretence of being the proper heir, made a forcible entry into Stanfield Hall in Norfolk, then in the possession of Mr. Isaac Jermy, Recorder of Norwich. He and his followers were not ejected till the Riot Act had been read and the military had surrounded the house. On 13th April, 1839, he and eighty-one of his supporters appeared at the Norfolk Assizes and pleaded guilty to a charge of riot. Larner and one other were condemned to three months' imprisonment, nine others to two months' and the rest to a week's imprisonment.

TRAGIC EVENTS

The coroner's inquest has confirmed what appeared most likely at first, that the tragic mishap with a sporting gun which cost Mr. Owen Bateson, K.C., his life was indeed an accident. The circumstances were wholly different from those which accompanied the shooting of Mr. Justice McCardie some years ago. The judge was found in his flat sitting in an arm-chair with a gun between his legs and the muzzle pointing towards his face; a piece of cord was passed through the trigger-guard so that a shot could be fired by a movement of the foot. Mr. Ingleby Oddie, the Westminster coroner, concluded that his mind had become unbalanced as a result of three successive attacks of influenza, producing mental weakness and profound melancholy. That particular tragedy subsequently gave rise to a most extraordinary allegation in a book by a mental specialist, a suggestion that he was the victim of black magic. This is his story: he said that the judge once visited a foreign land under an assumed name. "There he did get at loggerheads with a man who was in reality a great black magician ... This great servant of the underworld threatened: 'In seven years from this day shall thy body be no more; a gun of old order shall fire thee out of existence at my command and thou shalt die in disgrace, for the world shall not know that it was not thy hand which took thy life but my invisible hand ...' And so it came to pass that exactly seven years from that very day the newspapers of the Occident blazed forth with the lamentable news that a great judge had committed suicide. This was indeed no suicide. It was the hand of the great black magician ... For fourteen days prior to his death this great gentleman was awakened by a vision of two eyes each morning at two o'clock ... those were the eyes of the black magician who had kept his word; he had evoked the Angel of Death." Well, that is the story.

SIR JAMES HALES

It seems to be so much the rule that judges and men of law should attain an honourable antiquity, that the rare instances of an end otherwise than by natural causes comes as a particular shock, like the death a few years ago of Mr. Justice Langton. These sad occasions are scattered very sparsely over the field of legal history. One, however, of the most remote should be the best remembered, for there is something rather special by which to recall it. Sir James Hales lived and was a Justice of the Common Pleas in the troubled times of the Tudors. He sat on the Commission which deprived Bishops Bonner and Gardiner of their Sees, and when Mary ascended the throne and Gardiner sat on the Woolsack, his position became very difficult. The new Chancellor refused to administer the judicial oath to him and committed him to prison, where he unsuccessfully attempted suicide. He was released, but soon afterwards he drowned himself in a shallow stream near Canterbury. The coroner found that he voluntarily entered the water " and himself therein feloniously and voluntarily drowned." The arguments in the subsequent litigation over the forfeiture of his property inspired part of the gravedigger's dialogue in Hamlet: " Here lies the water; good: here stands the man; good; if the man go to this water and drown himself, it is, will he, nill he, he goes; mark you that; but if the water come to him and drown him, he drowns not himself: argal, he that is not guilty of his own death shortens not his own life."

COUNTY COURT LETTER

Wife's Claim to Furniture

IN *Mole* v. *Howe and Others*, at Stratford-on-Avon County Court, the plaintiff sued her step-father, mother and husband for the return of sixty articles of ornamental or utility value in the household. The plaintiff's case was that the articles were purchased by her, or were presents given to her at various dates. The defence was that, three days after the return of her husband from the Far East, the plaintiff ceased to reside with her mother and lived elsewhere with another man. Efforts had been made to persuade her to return, but without success. All the articles belonged to the household of the plaintiff's mother, who produced a number of receipts in support of her case. His Honour Judge Forbes observed that, wherever he was able to check the plaintiff's evidence, he found it in conflict with the documents. He was not concerned with the details of her private life, but he had to keep them in mind where they might affect the credibility of her evidence. Judgment was given for the defendants, with costs.

Decision under the Workmen's Compensation Acts

Hernia not an Accident

IN *Phillips* v. *Basalts, Ltd.*, at Wellington County Court, the applicant was aged forty-three, and his case was that he had been employed by the respondents for twenty-four years. On the 27th March, 1946, he was breaking up and loading stones with a pinch bar, when a stone caused him to fall and twist himself. An operation for hernia was performed on the 13th April, there being no previous history of such trouble. The applicant resumed light work on the 22nd July. The respondents' medical evidence was that there were no symptoms of the hernia having come on suddenly. It was apparently of some months' duration. His Honour Judge Samuel, K.C., held that no accident occurred on the 27th March. No award was therefore made.

POINTS IN PRACTICE

Questions from solicitors who are REGISTERED ANNUAL SUBSCRIBERS are answered, without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 88-90, Chancery Lane, W.C.2, and contain the name and address of the subscriber and a stamped addressed envelope.

Royal Marine's Service

Q. We act for Royal Marine X, now aged twenty-one years, who joined the Marine Band when aged fourteen and signed a certificate of declaration to the effect that he would serve twelve years' service on attaining the age of eighteen. The certificate was countersigned by X's father, who was a widower with five children. Since signing the declaration at the age of fourteen X has signed no other documents, and took no steps to avoid his contract at the age of eighteen in view of the emergency. X, who has very recently attained the age of twenty-one, is desirous of avoiding the contract and leaving the service. (1) Can the contract be avoided by X at common law? (2) Assuming the answer to (1) is " yes," can the Admiralty retain the services of X under any emergency legislation? (3) Is there any provision in the King's Rules and Regulations which prevents the contract being avoided?

A. (1) No; the common law rights of X, as an infant unable to bind himself by contract, were abrogated on enlistment. (2) and (3) The Royal Marines Act, 1939, took away whatever rights X had previously in regard to his discharge. X may be able to utilise the provisions of the Naval and Marine Forces (Temporary Release from Service) Act, 1940. Apparently, however, this is not in accordance with his wishes. If a case can be made out on compassionate grounds, an application for discharge should be made by X to his commanding officer.

Mr. N. B. Corlett, solicitor, of Hoylake, Cheshire, left £495,604, with net personalty £478,247.

REVIEWS

Green's Death Duties. By G. M. GREEN., LL.B., Solicitor, of the Estate Duty Office. Second Edition. 1947. London: Butterworth & Co. (Publishers), Ltd. 52s. 6d. net.

When there are already a number of well-established books on a subject, it is not an easy task for an author to write a new book the first edition of which becomes accepted as a standard text-book. When this happens, he has reason to congratulate himself. Mr. Green succeeded in doing this, for the first edition of his death duties soon gained a place as an authoritative work on the subject. The second edition is a worthy successor to the first, and it is certain that the position gained will be further consolidated.

Books on death duties can hardly be considered suitable for bedside reading, but, so far as the subject can be made readable, the author's arrangement of the text and his simplicity of style have made an examination of the new edition a pleasurable task. It is rare to find an author in agreement with the comments of a reviewer, for he generally looks upon him as a low, coarse creature who approaches the author's *magnum opus* with a wearied, jaundiced eye. It is therefore pleasing to read that the author of this book has taken to heart the epithet " inexcusable," which was applied by a reviewer of the first edition to the dismissal of the subject of testamentary expenses in a few general words and a reference to the relevant statute. As a result, a full and useful explanation of the order of the application of assets in England and Wales has been given in the chapter devoted to the incidence and adjustment of duty.

Chapter 9 deals very clearly with the position of foreign elements in an English estate, and with the reliefs that may be obtained in the avoidance of the incidence of double death duties. The first of the conventions entered into as a result of s. 54 of the Finance Act, 1945—that with the United States of America—has been carefully analysed. As the law set out in the book is only claimed to be correct up to the 1st of September, 1946, it was not possible to deal with the Canadian convention in a similar manner. But the next best thing has been done, for the full text of the draft Order in Council is included in the appendix of statutory rules and orders.

The book is furnished with a very comprehensive index, a test of which has proved that it has been compiled on exhaustive lines. The book itself is No. 10 of the well-known Butterworth's Modern Textbooks, and is well deserving of a place in that series.

The Newspaper. A study of the daily newspaper and its laws. By I. ROTHENBERG. 1946. London: Staples Press, Ltd. 35s. net.

There can be no question but that Dr. Rothenberg, in presenting the vast amount of information collected in this book, has performed a valuable service at a time when the functions and freedom of the Press are exercising many minds in this country. The records of other countries and other ages in attempting to deal with the Press must be understood and learned from if any good is to come out of the Royal Commission on the Press at all, and the number and diversity of laws and rules that have been tried, and that appear in this book, surprised at least one reader.

The author's method is to state his information and leave the reader to draw his own conclusions. While this has its advantages (we cannot accuse him of trying to tell us what to think), it seems a pity that such comprehensive knowledge and wide research should not have been digested more fully before presentation. The truth is in no danger from fair editing. A tendency to ramble is perceptible, and a certain pleasure in stating and enlarging on the obvious. The quality of the translation does not smooth the reader's path.

For sheer weight and completeness of knowledge on its subject, however, this book is unique. Those who have the patience to read and the skill to assimilate it will find themselves well rewarded in erudition.

INCREASE IN VALUE PAYMENTS

THE increase which is to be made in value payments under the War Damage (Increase of Value Payments) Order, 1947, dated 4th March (S.R. & O., 1947, No. 390), will mean that many recipients will have to consider their position. It is important for them to understand not only what the increases are, but also why they have been ordered.

Shortly, the increase is to be 45 per cent. in cases under the following provisions of the War Damage Act, 1943: s. 7 (1) (general provision for value payments), s. 15 (payments where making good total loss is expedient for the benefit of other land), and s. 20 (3) (*b*) (payments to give effect to the provisions for securing conformity with planning requirements). In cases under s. 14 (payments when partially damaged land is compulsorily acquired) and s. 20 (2) (*b*) (value payment made in public interest instead of cost of works payment) the amount of the increase is to be 60 per cent. Sixty per cent. increase is also awarded in the case of payments under s. 13, where partial damage to land is not made good (mixed cost of works and value payments).

The reasons for the increases are set out in the published report of the War Damage Commission to the Treasury made under s. 11 of the War Damage Act, 1943 (H.M. Stationery Office, price 2d.). First mention is given to the well-known and substantial rise in the market value of buildings since 1939, to which Parliament has already given legislative recognition in Pt. II of the Town and Country Planning Act, 1944, and its provisions as to compulsory purchase of land. Regard has also been paid to the change in the value of money since the passing of the War Damage Act, 1941, its relevance being only to the extent of the degree to which it is reflected in the market value of buildings. The report states that the recipient of a value payment would not normally spend it on goods but would seek either another building or another investment. The rise in building costs, which is not less than 100 per cent. above pre-war costs, is not directly relevant, in the opinion of the Commission, but only in the effect it has had, as one among a number of factors on the market value of existing buildings. This is because the value payment is normally made in respect of the loss of an old building. Had the claimant received his value payment at the date of the bomb, the report states, and had he invested it in real property, he could have done so with great advantage as compared with his present position, such advantage varying very considerably according to the date of the bomb. The market in real property is therefore not easy to survey.

The report goes on to say that value payments fall into two main categories. The first and much larger occurs where the test under s. 7 shows that the damage has involved "total loss." These are "original value payments," and the other category consists of "converted value payments" where properties otherwise qualifying for cost of works payments cannot be made good or rebuilt because of compulsory purchase. The buildings attracting an original value payment were out of date in greater or less degree in lay-out, design and amenities, and in many cases were poorly maintained. In estimating the percentage increases, the Commission has had regard to the fact that nine out of ten of value payments are in respect of houses and have based their conclusions on figures of sales prices provided by the valuation office, which has records of all sales of real property.

As to consequential losses, such as the need to pay rent for alternative premises or to keep up payments of mortgage interest on destroyed properties, these are outside the scheme of the War Damage Act, 1943, and no regard can be paid to them. The report also states that the Commission cannot, as was done in the Town and Country Planning Act, 1944, discriminate between the various ownerships interested in a property, and give special treatment to the occupier. Section 11, it is pointed out, speaks of a possible increase in the amounts of value payments, and not in shares of such payments.

The increases are to carry interest from the date of damage, and in this connection it will be observed from the report that owing to the complications of negotiations, appeals, agreements as to apportionment of payments and references to the Valuation Appeals Tribunal, it will, in any event, be towards the end of 1947 before the Commission will be able to issue payments in bulk, and some time thereafter before the whole of the 200,000 payments involved are cleared. The Chancellor of the Exchequer, however, expressed a hope in the Commons on 21st March, that he would get all the payments made within the present calendar year. In nearly half the cases the speed with which the Commission would be able to complete the preparation of the payments would depend primarily on the owners themselves. Claimants, the Chancellor said, should let the War Damage Commission have their views as soon as possible after the first formal determination had been made, and he would do his best to speed the matter along. When two or more persons were interested in a payment, they should consider how the payment should be divided between them, and the Commission informed. The Chancellor said that he hoped that in most cases there would be voluntary agreement on this matter rather than a reference to the Valuation Appeals Tribunal.

The practical question which leaps to the mind at once is, what should be the basis of such a voluntary agreement, or, in other words, on what principles would the Valuation Appeals Tribunal decide questions of apportionment. In the ordinary way, if no increase had been made in value payments, the rules governing the apportionment of value payments are to be found in s. 12 (2) and para. 3 of the Second Schedule to the War Damage Act, 1943. The broad effect of this paragraph is that the value of each interest must be found as before the damage and as after the damage respectively, the lesser (value after the damage) is subtracted from the greater (value before the damage), and the proportion which that net resultant figure bears to the total of the net resultant figures of all the interests in the hereditament, is the proportion of the value payment which the owner of that interest receives. Of course, if a notice of disclaimer is served, the value as immediately after the bomb becomes smaller, the tenant's loss thereby becomes greater and the tenant's share of the value payment becomes greater.

There seems to be no reason in law or common sense why the same principles should not apply to the apportionment of the increase in the value payment as those applying to the value payment. The increase, on a proper construction of s. 11, is a part of the value payment, and as such, is subject to the rules as to apportionment laid down in s. 12 (2) and the Second Schedule, para. 3. This would seem to follow also as a matter of common sense from the reasons for the increase set out in the Commission's report.

One final word of caution is necessary. If an owner of an interest has already paid an owner of another interest for his share of the value payment, the latter will only be able to reopen the matter by claiming his share of the increase if he is in a position to show that the payment was not pursuant to a contract to agree the amount finally to be paid to the latter.

MENTAL HEALTH AND THE OFFENDER

CLARKE HALL LECTURE

IN his Clarke Hall Lecture on this subject, delivered in the New Hall, Lincoln's Inn, on the 26th March, with Mr. Justice Birkett in the chair, Dr. J. R. Rees said that each of his predecessors had inevitably mentioned the psychiatric and psychological considerations inherent in society's relation to the offender. From whichever angle the subject was approached we always found that the centre was the individual, badly adjusted within himself, in conflict with society, and thus creating an unhealthy situation. There was no mystery about the psychological treatment. Granted the co-operation of the patient, the physician hoped through careful and detailed discussion of the nature and origin of his particular difficulty or abnormal reactions to make it possible for him to alter and reshape his point of view or conduct. The danger of giving priority to the individual over society should recede. No doctor of experience excused bad conduct; he sought reasons for it so that punishment or any other type of applicable treatment might be more wisely used.

Mental health had been described as the adjustment of human beings to the world and each other with a maximum of effectiveness and happiness. All failure to comply with the rules of the game, all anti-social conduct, whether in the nursery or the courts, was evidence of some psychological failure in the conduct of life. Crime was the outward sign of some disorder in personality and character. It would pay to study not only the grosser problems like sexual perversion, but also pleasanter drawing-room offences such as the evasion of customs duty or income tax. Everyone concerned with the protection of society and the maintenance of its rules must be interested in the reasons why individuals transgress them. The individual was responsible for his emotional as he was for his physical disorders. In both, treatment without diagnosis was unwise. The facts proving the existence of the disorder, together with those added by the individual investigations of probation officers, psychologists and psychiatrists, could provide the data upon which it became easier to make a proper diagnosis and give effective treatment. Such complicated and important matters needed trained teams workers of high quality. The principle of the team was already recognised in the juvenile court and the child guidance clinic, and a similar method had grown up in the Army in the selection of

candidates for commissions. It would be better if medical men were regarded by the court as expert advisers and did not so often appear to be there merely to support the efforts of counsel. At every remand home and in every prison psychiatrists and psychologists with the necessary training and experience should be available to investigate, report on, and interpret the material referred to them. The sociologist and penologist had equal status in the team. All concerned must abandon sensitiveness to criticism; the Court of Criminal Appeal, the magistrates, the Prison Commissioners, the Home Office and the thoughtful public were all in the team as well, and so was the offender if he could be brought to participate with a realisation of the justice of the proceedings and the ultimate aims in view.

Army experience had shown that much sickness and crime could be prevented by employing the large percentage of dull men on manual and other work within their capacity. Society must exhort and punish the dull man quite differently from the intelligent. The quality of the magistracy might well be improved. Magistrates should not only have patience, sense and wisdom, but should also be people who knew themselves fairly well, had tolerance where it was needed, and were unshockable. They must have insight into human beings and their motives. The country needed a better-trained magistracy, a better-selected and a younger group, probably paid on a professional basis. There was great opportunity for further research in the fostering of morale in prison. Of the factors that made for good morale, the first was that the man should have a sense of some aim in his work and some general purpose in his life, and a sense of his own competence and that he belonged to the community. Preparatory training for all the jobs of industry, and training within industry, would do much to give a sense of pride in work. Cultivation of the sense of belonging to a group demanded better leadership, more and better youth clubs, the study of groups and how some individuals fitted into and some were rejected by them. When personnel management became recognised as one of the most important tasks of industry, it would play its part in solving the problem of the offender. Better-paid, better-trained and more numerous probation officers would do a great deal more real preventive work.

In dealing with the great problem of selfishness and self-centredness, possibly marriage welfare was as useful a starting point as any. There would clearly be happier homes and better-adjusted parents if people married more wisely. People in this country had hardly begun to awaken to their shortcomings in this direction or to realise that sound foundations for marriage were far more important than vaccination against smallpox or any of the other great remedial devices of proven efficacy. The child must be wanted and loved, for without love there was an inevitable insecurity. Infinitely preferable to dealing with salvage would be to treat minor maladjustment before the grooves in personality had become deep and set. The country must therefore have more inquiry and more research, but a certain amount was known already, and there was no need to await the findings of research before taking up our responsibility for mental health. A Royal Commission should be appointed to report on the handling, treatment and prevention of crime. Our great store of valid experience should be reviewed, assessed and incorporated into our own activities with the approval of the community. The whole inquiry should be recognised as one in which every serious worker in every part of the field could feel a sense of participation. No one should be on the defensive; no whitewash would be needed. The object of every worker was the same. As we learned from dealing with hopeless problems, we should gain more and more to contribute towards the mental health of the country.

RECENT LEGISLATION

STATUTORY RULES AND ORDERS, 1947

No. 530. **Coal Industry Nationalisation** (Contracts) Regulations. March 25.

No. 515. **Consumer Rationing** (Revocation of Licences) Order. March 22.

No. 520. **Juvenile Courts** (Metropolitan Police Court Area) Order in Council. March 10.

No. 523. **Matrimonial Causes Rules.** March 25.

No. 519. **Metropolitan Police Courts** (Greenwich and Woolwich) Order in Council. March 10.

LAND REGISTRY

Form 91. **Application for Information as to a Notice of Lease.** (Reprinted 1947.)

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2.]

NOTES OF CASES

HOUSE OF LORDS

Riches *v.* **Westminster Bank, Ltd.**

Lord Simon, Lord Wright, Lord Porter, Lord Simonds and Lord Normand. 21st March, 1947

Revenue—Income tax—Contract—Judgment for lump sum including interest—Liability to tax—"Interest of money"—Income Tax Act, 1918 (8 & 9 *Geo.* 5, *c.* 40), *Sched. D, para.* 1 (*b*), *All Schedules Rules, r.* 21—*Law Reform* (*Miscellaneous Provisions*) *Act*, 1934 (24 & 25 *Geo.* 5, *c.* 41), s. 3.

Appeal from a decision of the Court of Appeal (du Parcq and Morton, L.JJ., and Cohen, J.) (89 SOL. J. 412) affirming a decision of Evershed, J. (89 SOL. J. 201).

The appellant had an agreement with one R that, in consideration of the appellant introducing to him a transaction for the purchase of a block of shares, R would pay to the appellant half of any profits realised on the resale of the shares. R resold the shares but he misrepresented the profits he had made and paid to the appellant less than a half share of the actual profits. The appellant, having discovered the true facts, after R's death brought an action against the respondent bank, as the judicial trustee of R's estate, for the balance due to him. Oliver, J., who heard the action, found that £36,255 was due to the appellant and he awarded him that sum together with £10,028, being the equivalent of interest at 4 per cent. per annum from the 14th June, 1936, when the money should have been paid, to the date of judgment. The respondents duly paid to the appellant the sum of £36,255 together with the sum of £5,014, being the sum of £10,028 less income tax at 10s. in the pound, which the respondents claimed was deductible under r. 21 of the Income Tax Act, 1918. The appellant having threatened to levy execution for the balance of the £10,028, the respondents in this action claimed a declaration that they had duly satisfied the judgment for £36,255 and £10,028 interest thereon. Evershed, J., gave judgment for the respondents. His decision was affirmed by the Court of Appeal.

The Law Reform (Miscellaneous Provisions) Act, 1934, s. 3, provides: "(1) In any proceedings . . . for the recovery of any debt or damages, the court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of judgment." Subsection (2) repeals ss. 28 and 29 of the Civil Procedure Act, 1833.

Lord Simon said that the appellant contended that the sum of £10,028, though awarded under a power to add interest to the amount of the debt, and though called interest in the judgment, was not really interest, which attracted income tax, but was damages. The answer to that was that there was really no essential incompatibility between the two conceptions. The real question for the purpose of deciding whether the Income Tax Acts applied was whether the added sum was capital or income, not whether the added sum was damages or interest. Before the coming into operation of the Act of 1934, the rule at common law prevailed that, when an action for the payment of a debt succeeded, the court could not add interest on the debt down to judgment, unless interest was payable as of right under a contract express or implied. The discretion conferred on the court by the enacting words was a discretion to add interest, when judgment was given for a debt or damages, although there was no contractual right to interest The amount given might be regarded as given to meet the injury suffered through not getting payment of the lump sum promptly, but that did not alter the fact that what was added was interest. The appellant relied on *In re National Bank of Wales, Ltd.* [1899] 2 Ch. 629, and *Simpson* v. *Executors of Bonner Maurice* [1929] 14 T.C. 580. The observations of R. S. Wright, J., in the first case were wrong. The second case was of a very special character and could not be regarded as leading to a conclusion in favour of the appellant. The further argument was advanced that the added sum was not in the nature of "interest," because it only came into existence when the judgment was given and from that moment had no accretions under the order awarding it. There was no reason why, when the judge awarded interest from a past date, this payment, the size of which grew from day to day, should not be treated as interest attracting income tax. The appeal should be dismissed.

The other noble and learned lords agreed in dismissing the appeal.

COUNSEL: *Frederick Grant*, K.C.; *N. E. Mustoe*; *Terence Donovan*, K.C., and *L. C. Graham-Dixon*.

SOLICITORS: *Last, Riches & Co.*; *Kenneth Brown, Baker, Baker.*

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

COURT OF APPEAL

Bomford *v.* South Worcestershire Assessment Committee and Others

Lawrence, Tucker and Cohen, L.JJ.

28th January, 1947

Rating—Agricultural worker in house by virtue of employment—Statutory maximum sum deductible from wages—Effect on rateable value—Agricultural Wages (Regulation) Act, 1924 (14 & 15 *Geo.* 5, *c.* 37)—*Agricultural Wages (Regulation) Amendment Act,* 1940 (3 & 4 *Geo.* 6, *c.* 17)—*Local Government Act,* 1929 (19 & 20 *Geo.* 5, *c.* 17), *s.* 72.

Appeal from a decision of the Divisional Court [1946] K.B. 442.

The appellant, a farmer, occupied two agricultural cottages which were used as dwellings by two workers on his farm by virtue of their employment. By an order made under the Agricultural Wages (Regulation) Acts, 1924 and 1940, fixing minimum rates of wages for the area, 3s. was the maximum sum deductible from an agricultural worker's wages in respect of a cottage provided for him by his employer. The farmer appealed against an increase in the assessment of the gross and rateable values of the two cottages to Worcestershire Quarter Sessions, who stated a case for the opinion of the High Court. By s. 72 of the Local Government Act, 1929: " . . . the gross value for rating purposes of a house occupied in connection with agricultural land and used as the dwelling-house of a person who . . . is employed in agricultural operations on that land in the service of the occupier thereof and is entitled . . . so to use the house only while so employed, shall, so long as the house is so occupied and used, be estimated by reference to the rent at which the house might reasonably be expected to let from year to year if it could not be occupied and used otherwise than as aforesaid." Quarter sessions left for the opinion of the Divisional Court the question whether or not on the facts stated the gross value of the two cottages, ascertained in accordance with s. 72 of the Local Government Act, 1929, was limited by the value at which they were to be reckoned as payment of wages in lieu of payment in cash under the relevant statutory provisions. The Divisional Court held that the gross rateable value of the cottages was not to be limited by reference to the weekly sum of 3s. which was the most that the farmer could receive for each, by deduction from wages or otherwise, from the worker, since a farmer might be willing to pay a larger sum in rent for the cottage in order to secure accommodation for an agricultural worker whom he wished to employ. The farmer now appealed, the rating authority and the assessment committee for the district being the respondents.

LAWRENCE, L.J., said that the Divisional Court had decided in favour of the assessment committee and the rating authority on the view that the rent at which the cottages might reasonably be expected to let from year to year, if they could not be occupied and used otherwise than as aforesaid, would be a rent which might be expected to be obtained from the competition of any farmers in the neighbourhood who wanted these cottages for occupation by their farm workers. The appellant farmer argued that the restrictive covenant to be imagined under s. 72 as attaching to the cottages was a covenant that they could not be occupied and used " otherwise than as aforesaid "; that was, otherwise than by the agricultural workers of the farmer of " that land." That would have the effect, so he contended, of excluding the competition of all other farmers, and would lead to competition, so far as the rent was concerned, merely between the farmer of the land and any employees of his on that land. The Divisional Court held that the competition might be by any farmers, who would, as the court said, be prepared to give a rent in all probability higher than the 3s. which was merely the sum fixed for the purpose of the minimum wage and the amount which the employer could deduct from the cash wages paid. The special case did not, however, raise that question, and it was unnecessary for the Court of Appeal to decide whether s. 72 excluded or included the competition of all farmers. The case stated put the question simply as being whether or not the valuation must have regard to the 3s. rent laid down by the Agricultural Wages (Regulation) Acts. In his (his lordship's) opinion, on that question the rating authority and assessment committee were clearly right. Even if the only hypothetical tenant to be taken into account was the farmer in whose employ the worker who was occupying the cottage was, that farmer might be prepared to pay a higher rent for the cottages than the 3s. laid down by the Acts. Those Acts and the Local Government Act, 1929, had nothing to do with each other. As a matter of fact and of ordinary economy, a single farmer, without any competition from any farmers, might be prepared to rent these cottages—and the appellant farmer might have been prepared to rent them—at more than 3s. a week for the purpose of obtaining housing accommodation for his employees. The question put by the special case should be answered in the negative and the appeal be dismissed.

TUCKER and COHEN, L.JJ., agreed.

COUNSEL: *Rowe*, K.C., and *Harold Williams*; *Capewell*, K.C., and *Squibb*.

SOLICITORS: *Ellis & Fairbairn*; *Vizard, Oldham, Crowder and Cash*, for *Smith & Roberts*, Evesham.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

***In re* a Solicitor. *In re* Taxation of Costs**

Roxburgh, J. 24th January, 1947

Solicitors—Costs—Taxation—Statement of charges delivered in 1940—*Lump sum bill—Application to tax six years later—Jurisdiction—Solicitors' Remuneration Act General Order,* 1882, *cl.* 2 (*a*) (*c*)—*Solicitors Act,* 1932 (22 & 23 *Geo.* 5, *c.* 37), *ss.* 64, 66—*Solicitors' Remuneration (Gross Sum) Order,* 1934.

Adjourned summons.

The respondent firm of solicitors had been acting for the applicant for a substantial period. On the 31st July, 1940, they sent to her in Switzerland a letter with a receipted bill of their costs, which they had paid by deduction from funds of the applicant in their hands. The statement of account sent with the letter showed a considerable sum of money credited to the applicant and the manner in which it had been disbursed. The only claim of importance for the purpose of the application was the disbursement under the head of bill of costs, which amounted to a substantial sum. This statement of charges was not a " bill " within s. 66 of the Solicitors Act, 1932. It contained a long and detailed statement of work done in connection with the negotiation of an advance on the applicant's interest in a family trust, but no separate charge was made for any part of the work, a lump sum being charged for the whole. The applicant, having received the respondent's letter and bill in August, 1940, did nothing about the matter until 1946. The respondents continued to act for her until 1944, upwards of 100 letters passing between her and the firm. In January, 1946, the applicant's new solicitors wrote raising a question with regard to the bill of charges. She then started this application under s. 64 of the Solicitors Act, 1932, to have the bill taxed under s. 66.

ROXBURGH, J., said that the statement of charges contained a gross sum or a lump sum charge. Such a statement was not a " bill " within s. 64 before the Solicitors' Remuneration (Gross Sum) Order, 1934, came into operation. This bill of charges fell within that order, provided the only business included therein was business remuneration in respect of which was regulated by the Solicitors' Remuneration Act General Order, 1882, cl. 2 (*c*). If the business was of that description, the court would not make the order under s. 64 unless the client applied within six months, in accordance with the proviso to the order of 1934. The question was therefore whether this statement of charges was regulated by cl. 2 (*c*) of the 1882 order. All non-contentious business fell within cl. 2 (*c*), unless it fell within some other provision of the 1882 order. The only other clause which would apply was cl. 2 (*a*). A mortgage was completed in this case, but it did not include any land within the jurisdiction. Clause 2 (*a*) in his opinion was inapplicable, and cl. 2 (*c*) covered the case, being work to which no other scale was applicable. If that conclusion were well founded, that was an end of the case. If he were wrong and the respondents could not rely on the statement of charges as a statement delivered pursuant to the Solicitors' Remuneration (Gross Sum) Order, 1934, he would have to consider whether he should make an order under s. 64. Having regard to the delay, even if he were wrong in his construction of the 1882 order, he ought not to exercise his jurisdiction to make an order under s. 64. The application must be dismissed.

COUNSEL: *James Stirling*; *M. Berkeley*.

SOLICITORS: *Ridsdale & Sons*; *Kenneth Brown, Baker, Baker*.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

KING'S BENCH DIVISION

B. Johnson & Co. (Builders), Ltd. *v.* Minister of Health

Henn Collins, J. 14th February, 1947

Housing—Compulsory purchase—Acquiring authority's statement to Minister on matters peculiarly within vendor's knowledge—Non-disclosure—Housing Act, 1936 (26 *Geo.* 5 *and* 1 *Edw.* 8, *c.* 51), *Pt.* V.

Appeal under the Housing Acts.

On 31st July, 1945, Huyton-with-Roby Urban District Council made a compulsory purchase order in respect of land which the

appellant company had bought for development, and on which they were ready to build houses in accordance with the council's town-planning scheme as soon as the necessary permits could be obtained. In their letter submitting the order to the Minister for confirmation, the council stated that negotiations for the voluntary sale of the land had failed. In another letter they described the appellant company as speculative builders. Neither of those letters was disclosed to the company nor were they given an opportunity of commenting on any statements contained in them. There had in fact been no such negotiations. The Minister confirmed the order, and the company appealed.

HENN COLLINS, J., said that in his view the confirmation order should be quashed. Once objections had been duly lodged, a public inquiry might, but did not necessarily, follow. Once the objections had been made, however, it became incumbent on the Minister to consider, in the light of those objections and of any information which he might have received before they were lodged, fairly and with an open mind the question which statute propounds for him, namely, whether he should think fit to confirm the order made by the local authority. He (his lordship) had expressed that idea in *Miller* v. *Minister of Health* [1946] 1 K.B. 626; 90 SOL. J. 503; and Morris, J., in *Price* v. *Minister of Health* [1947] 1 All E.R. 47, had followed that decision. Those cases merely laid down that when the Minister was put in a quasi-judicial position he did not necessarily act unfairly because he did not disclose to the objectors all the information in his possession. That was not to say, however, that if he had in his possession a statement material to his decision about the status or conduct of the objectors, or of facts peculiarly within their knowledge with which they could deal, and which he proposed to consider, he should withhold the facts; for it was only natural and fair that the objectors should have an opportunity of commenting on them. Here, in furthering their application to the Minister, the urban district council took occasion to say in two separate letters: (*a*) that the objectors were speculative builders, and (*b*) that negotiations for the voluntary sale of land had failed. According to the evidence, there had been no failure of negotiations, for there had been none. It was obvious that the urban district council had seen an opportunity of acquiring cheaply land which in either their hands or anybody else's would be of far greater value. They thought that they ought to have that land. The Minister was no doubt misled by those statements. The issue being whether this land was to be acquired compulsorily, the first question was whether it could be acquired freely before compulsory powers were imposed, and it must be relevant to that question to know whether negotiations had taken place or not. The order would be quashed.

COUNSEL: *Sir Valentine Holmes*, K.C., and *Milmo*; *H. L. Parker*.

SOLICITORS: *Pritchard, Englefield & Co.*, for *Aneurin Rees and Davies*, Liverpool.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

THE DAILY CAUSE LIST

At the suggestion of the Law Reform Committee of the Bar Council, it has been agreed that, so far as possible, the following arrangements shall prevail:—

(1) The Lists of the Court of Appeal and of the Chancery Judges will be settled at 2 o'clock.

(2) Between 2 o'clock and 3 o'clock the settled lists will be collected by the Judges' messenger and taken to Room 136, where copies of the settled lists will be made for public scrutiny. Copies will also be made for The Law Society and for the frames in the Main Hall and Carey Street.

(3) The printer's messenger will collect the settled lists at 3 o'clock.

(4) The Daily Cause List will be printed between 3 o'clock and 5 o'clock.

(5) Copies of the Daily Cause List will be on sale in Room 1, Royal Courts of Justice, at 5 o'clock, when clerks to professional gentlemen are recommended to collect their copies.

(6) Messrs. Waterlow's messengers will deliver copies of the Daily Cause List between 5.30 and 6.30 o'clock.

N.B.—The profession is reminded that the copies of the settled lists which may be seen on the counter in Room 136, in The Law Society's Hall, or in the frames in the Main Hall and Carey Street, are subject to alteration; and that the Daily Cause List, when published at 5 o'clock, contains the lists of cases as finally settled.

(Sgd.) R. N. R. BLAKER,
Chief Registrar,
Chancery Registrars' Dept.,
20th March, 1947.

PARLIAMENTARY NEWS

HOUSE OF LORDS

Read First Time:—
SWINDON CORPORATION BILL [H.C.] [31st March.
WEAR NAVIGATION AND SUNDERLAND DOCK BILL [H.L.] [1st April.

Read Second Time:—
COTTON INDUSTRY WAR MEMORIAL TRUST BILL [H.C.] [1st April.
LOCAL GOVERNMENT (SCOTLAND) BILL [H.L.] [31st March.

Read Third Time:—
COMPANIES BILL [H.L.] [1st April.
CROWN PROCEEDINGS BILL [H.L.] [31st March.
PENICILLIN BILL [H.L.] [31st March.

HOUSE OF COMMONS

Read Second Time:—
NATIONAL SERVICE BILL [H.C.] [1st April.
TREATIES OF PEACE (ITALY, ROUMANIA, BULGARIA, HUNGARY AND FINLAND) BILL [H.C.] [28th March.

QUESTIONS TO MINISTERS

STATUTORY INSTRUMENTS ACT

Sir J. MELLOR asked the Financial Secretary to the Treasury when he proposes that the Statutory Instruments Act, 1946, shall be brought into operation by Order in Council under s. 10 of the Act.

Mr. GLENVIL HALL: It is intended to arrange for this Act to commence at the beginning of next session. [31st March.

NOTES AND NEWS

Honours and Appointments

The King has approved the appointment of Mr. RICHARD BUSH JAMES, K.C., and Mr. SEYMOUR EDWARD KARMINSKI, K.C., to be Commissioners of Assize on the North-Eastern and Northern Circuits respectively.

The King has, on the recommendation of the Lord Chancellor, approved the appointment of Mr. CECIL R. HAVERS, K.C., and Mr. AUBREY M. S. STEVENSON, K.C., to be Deputy Chairmen of the West Kent Quarter Sessions.

The Lord Chancellor has appointed Mr. CHRISTOPHER FAIRER, the Registrar of the Penrith and Appleby County Courts, to be in addition the Registrar of the Kendal and Windermere County Court and District Registrar in the District Registry of the High Court of Justice in Kendal as from the 1st April.

Mr. J. R. HOWARD ROBERTS, who became Clerk of the London County Council on 1st April, has been appointed Clerk of the Lieutenancy and Honorary Clerk to the Advisory Committee on the Selection of Justices of the Peace for the County of London.

Mr. FREDERICK WINSTON HARRISON has been appointed Town Clerk of Gravesend, Kent. He was admitted in 1933 and has been Deputy Town Clerk of Gravesend since 1939.

Mr. CYRIL E. C. R. PLATTEN, Deputy Town Clerk of St. Marylebone, has been appointed Clerk and Solicitor to Enfield Urban District Council. He was admitted in 1935.

Mr. WILLIAM K. G. THURNALL, an Assistant Solicitor in the Sheffield Town Clerk's department since 1945, has been appointed Prosecuting Solicitor to Monmouthshire County Council from 1st May. He was admitted in 1938.

Notes

The Annual General Meeting of the Bar will be held in The Old Hall, Lincoln's Inn, on Monday, 14th April, 1947, at 3 o'clock. The Attorney-General will preside.

The usual monthly meeting of the directors of The Law Association was held on the 31st March, 1947, with Mr. S. Hewitt Pitt in the chair. The other directors present were Messrs. C. A. Dawson, T. L. Dinwiddy, Ernest Goddard, G. D. Hugh Jones, Frank S. Pritchard, H. T. Traer Harris, John Venning, William Winterbotham and the Secretary, Mr. Andrew H. Morton. The sum of £210 was voted in relief of deserving applicants, provisional arrangements were made for the Annual General Court of the Association, Mr. Richard Alfred Creswell Loader was elected a life member of the Association and other general business was transacted.

The fifty-ninth annual general meeting of the Monmouthshire Incorporated Law Society was held at the Law Library, Newport, on the 28th March, 1947, when the annual report of the Council

was presented. Mr. D. T. Newton Wade, Newport, was elected President for the ensuing year and Mr. G. L. B. Francis and Mr. S. M. T. Burpitt, Vice-Presidents, Mr. C. O. Lloyd, Honorary Treasurer, Mr. S. M. T. Burpitt, Honorary Librarian and Mr. W. Pitt Lewis, Honorary Secretary. The following were elected members of the Council: Messrs. F. H. Dauncey, J. Owen Davis, Joshua Dawson, D. W. Evans, E. I. P. Bowen, S. P. Gunn, Mostyn C. Llewellin, G. Roy Jenkins, Trevor C. Griffiths and J. Alan Wilson.

LAW STUDENTS' DEBATING SOCIETY

On Monday, 17th March, the Society held a joint debate with the Sylvan Debating Club at the Caxton Hall, Westminster. The motion "That a halt should be called to scientific research" was lost by four votes.

At The Law Society's Court Room, on Tuesday, 25th March (Chairman, Mr. J. E. Terry), the motion "That the law relating to damage by animals calls for drastic reform" was lost by four votes, there being fourteen members and four visitors present.

The following debates are announced for April: Friday, 18th April, at 8 p.m.: Joint debate with Gray's Inn Debating Society, in Gray's Inn Common Room, "That the amalgamation of the two branches of the legal profession would be in the interests of the public." Tuesday, 22nd April, at 7.30 p.m., at The Law Society's Court Room (Chairman, Mr. H. F. MacMaster): "That the present policy of the Chancellor of the Exchequer will ruin the country." Tuesday, 29th April, at 7.30 p.m., at The Law Society's Court Room (Chairman, Miss Ruth Eldridge): "That the case of *Adams* v. *Naylor* [1946] A.C. 543, was wrongly decided."

COURT PAPERS

SUPREME COURT OF JUDICATURE

EASTER SITTINGS, 1947

HIGH COURT OF JUSTICE—CHANCERY DIVISION

Mr. Justice VAISEY

Mondays—Chambers Summonses (Group B).
Such business as may from time to time be notified.

GROUP A.—Mr. Justice ROXBURGH

Mr. Justice ROXBURGH will sit for the disposal of the Witness List.
Mondays—Bankruptcy Business.
Bankruptcy Motions and Bankruptcy Judgment Summonses will be heard on Mondays, 21st April and 5th May.
A Divisional Court in Bankruptcy will sit on Mondays, 28th April and 12th May.

Mr. Justice WYNN-PARRY

Mondays—Chambers Summonses (Group A).
Tuesdays—Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.
Wednesdays—Adjourned Summonses.
Thursdays—Adjourned Summonses.
Fridays—Motions and Adjourned Summonses.

GROUP B.—Mr. Justice EVERSHED

Mondays—Companies Business.
Tuesdays—Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.
Wednesdays—Adjourned Summonses.
Thursdays—Adjourned Summonses.
Fridays—Motions and Adjourned Summonses.
Lancashire Business will be taken on Thursdays, 24th April, 8th and 22nd May.

Mr. Justice ROMER

Mr. Justice ROMER will sit for the disposal of the Witness List.

EASTER SITTINGS, 1947

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court I.	Mr. Justice Vaisey.
Mon., April 14	Mr. Jones	Mr. Blaker	Mr. Andrews
Tues., ,, 15	Reader	Andrews	Jones
Wed., ,, 16	Hay	Jones	Reader
Thurs., ,, 17	Farr	Reader	Hay
Fri., ,, 18	Blaker	Hay	Farr
Sat., ,, 19	Andrews	Farr	Blaker

	Group A.		Group B.	
	Mr. Justice Roxburgh *Witness.*	Mr. Justice Wynn-Parry *Non-Witness.*	Mr. Justice Evershed *Non-Witness.*	Mr. Justice Romer *Witness.*
Mon., April 14	Mr. Hay	Mr. Farr	Mr. Reader	Mr. Jones
Tues., ,, 15	Farr	Blaker	Hay	Reader
Wed., ,, 16	Blaker	Andrews	Farr	Hay
Thurs., ,, 17	Andrews	Jones	Blaker	Farr
Fri., ,, 18	Jones	Reader	Andrews	Blaker
Sat., ,, 19	Reader	Hay	Jones	Andrews

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price April 3 1947	Flat Interest Yield £ s. d.	‡ Approximate Yield with redemption £ s. d.
British Government Securities				
Consols 4% 1957 or after	FA	114	3 10 2	2 6 9
Consols 2½%	JAJO	95⅛	2 12 4	—
War Loan 3% 1955–59	AO	106	2 16 7	2 3 5
War Loan 3½% 1952 or after	JD	106¾	3 5 7	2 3 3
Funding 4% Loan 1960–90	MN	116¼xd	3 8 8	2 10 0
Funding 3% Loan 1959–69	AO	105½	2 16 10	2 9 3
Funding 2¾% Loan 1952–57	JD	104½	2 12 8	1 15 9
Funding 2½% Loan 1956–61	AO	102⅝	2 8 9	2 3 9
Victory 4% Loan Av. life 18 years	MS	*118⅛	3 7 6	2 13 9
Conversion 3½% Loan 1961 or after	AO	111	3 3 1	2 11 1
National Defence Loan 3% 1954–58	JJ	106	2 16 7	1 19 9
National War Bonds 2½% 1952–54	MS	103	2 8 7	1 18 9
Savings Bonds 3% 1955–65	FA	106	2 16 7	2 3 5
Savings Bonds 3% 1960–70	MS	106	2 16 7	2 9 1
Treasury 3%, 1966 or after	AO	105½	2 16 10	2 12 6
Treasury 2½%, 1975 or after	AO	96	2 12 1	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	101	2 19 5	—
Guaranteed 2¾% Stock (Irish Land Act, 1903)	JJ	101	2 14 5	—
Redemption 3% 1986–96	AO	111	2 14 1	2 10 10
Sudan 4½% 1939–73 Av. life 16 years	FA	122½	3 13 6	2 14 10
Sudan 4% 1974 Red. in part after 1950	MN	117	3 8 5	—
Tanganyika 4% Guaranteed 1951–71	FA	105	3 16 2	2 13 4
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	101½	2 9 3	2 0 0
Colonial Securities				
*Australia (Commonw'h) 4% 1955–70	JJ	111	3 12 1	2 7 3
Australia (Commonw'h) 3½% 1964–74	JJ	109	2 19 8	2 12 1
*Australia (Commonw'h) 3% 1955–58	AO	104	2 17 8	2 9 5
†Nigeria 4% 1963	AO	118½	3 7 6	2 12 8
*Queensland 3½% 1950–70	JJ	104	3 7 4	—
Southern Rhodesia 3½% 1961–66	JJ	110½	3 3 4	2 11 11
Trinidad 3% 1965–70	AO	106	2 16 7	2 11 3
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	100½	2 19 8	—
*Leeds 3½% 1958–62	JJ	107	3 0 9	2 10 2
*Liverpool 3% 1954–64	MN	103xd	2 18 3	2 10 6
Liverpool 3½% Red'mable by agreement with holders or by purchase	JAJO	122½	2 17 2	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	100½	2 19 8	—
*London County 3½% 1954–59	FA	108	3 4 10	2 6 7
*Manchester 3% 1941 or after	FA	100	3 0 0	—
*Manchester 3% 1958–63	AO	105	2 17 2	2 8 7
Met. Water Board "A" 1963–2003	AO	103½	2 18 0	2 14 7
* Do. do. 3% "B" 1934–2003	MS	101	2 19 5	—
* Do. do. 3% "E" 1953–73	JJ	103	2 18 3	2 9 2
Middlesex C.C. 3% 1961–66	MS	106	2 16 7	2 9 10
*Newcastle 3% Consolidated 1957	MS	105	2 17 2	2 8 7
Nottingham 3% Irredeemable	MN	107xd	2 16 1	—
Sheffield Corporation 3½% 1968	JJ	115	3 0 10	2 11 4
Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	123½	3 4 9	—
Gt. Western Rly. 4½% Debenture	JJ	125½	3 11 9	—
Gt. Western Rly. 5% Debenture	JJ	137½	3 12 9	—
Gt. Western Rly. 5% Rent Charge	FA	134½	3 14 4	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	131½	3 16 1	—
Gt. Western Rly. 5% Preference	MA	119½	4 3 8	—

* Not available to Trustees over par.
† Not available to Trustees over 115.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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